

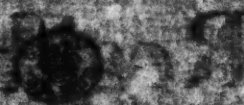
AN  
ESSAY  
ON A  
Registry,  
FOR  
Titles of Lands.

By JOHN ASGILL,  
of *Lincolns-Inn*, Esq;

L O N D O N,  
Printed in the Year 1698.

ESSAY

ON



OR

THE HISTORY OF THE

BY JOHN

OF LONDON

## The Preface.

**M**Y Name stands already Printed to a late Essay, Entituled, Several Assertions proved, in order to Create another Species of Money than Gold and Silver, of which I am not ashamed; and I have added my Name to this, that (whatever usage it meets with) I may stand bound to recognize it.

I hope I have such a Warrant to search for Truth, that will justify me in breaking through all Crafts and Sciences to find it, as Hunger justified David and his Men, for entering the Priest's House, and eating the Shew-bread.

And because I find that I shall scarce be able to begin, much less to get through my Argument, without unfolding some Mysteries of Iniquity between Priests and Lawyers, relating to the Titles and Settlements of Lands, I hope that the Modern Pro-

## The Preface.

fessors of either of these Sciences will not be offended with me for speaking the whole Truth; but if they should, They will thereby be Witnelles against themselves, that they justify the Deeds of their Fathers.

And if I should be charg'd with Prophaneness for mingling sacred things with secular, I will shelter my self under the Lord of the Sabbath, who was accused for doing Business on that day; and

Haud timeo si iam nequeam defendere Camen.

Cum tanto Commune

SEVERAL



# SEVERAL ASSERTIONS PROVED,

In Order to Introduce a BILL,

FOR

Establishing a **REGISTRY**

FOR

**Titles of Lands.**

## First Assertion.

*That at the Law now stands, the Freehold Lands in England may be incumbered in diverse Manners, and at diverse Places.*

**PROVED.**

**F**reehold Lands may be incumbered these several ways:

1. By Feoffment, which must be executed in the Place where the Lands lye.

2. By

2. By Grant with Attornment, of which the Tenants must have Notice.

3. By Fine and Recovery (with a Deed leading the Uſe) which are Matters of Record.

4. By Bargain and Sale, inrolled in either of the Four Courts at *Westminster*, or with the *Custos Rotulorum* of the County where the Lands lye.

5. By Judgments in Three Courts at *Westminster*.

6. By Recognizances entered in the Courts where they are acknowledged.

7. By Statutes Merchant and Staple transmitted into Chancery.

8. By Lease and Release, which may be Executed any where.

9. By Leases granted out of the Lands, which may be Executed any where.

10. By Rent charges granted out of the same, which may be Executed any where.

11. By Will in Writing.

12. By Bonds to the King, which are in the Nature of Statutes staple.

All these are Incumbrances made by the Act of the Party. Besides which there are others that happen by Default, as Acts of Bankruptcy, Eschaers and Attainders.

Now I am not a going to Calumniate the

the Law, for allowing of so many sorts of Incumbrances on Lands; but for permitting them to be done in diverse places, *Which doth render the Titles to Lands incertain, and therefore is a deficiency in the Law.* And tho' the Law hath directed several of them to be recorded, yet this doth not remedy the Incertainty.

*First,* Because these Records do lye in several Places, which makes the Search thereof chargeable, and the Finding difficult.

*Secondly,* Because those that are upon Record, have no Preference above those that be not; so that should a Purchaser discover all that are Recorded, he may be defeated by those that are not; which can never be discovered, but by the Confession of them that made them, because they may be executed any where.

Therefore the drift of this Essay, is to give a Sanction to one Place above all the rest, by annexing a Priviledge to it, and leaving it to every Man's pleasure whether he will purchase that Priviledge or not.

To shew the Necessities and Conveniencies whereof, I offer the following Arguments.

the Law, for showing of many points  
Second Assertion

That the Advantage taken (by the Con-  
veyancers in the Law) of the Statute  
of Uses, 27. H. 8. in making  
Clandestine Conveyances, contrary to  
the true intent and meaning of that  
Parliament, and all the avowed Laws  
and Customs of England, doth oc-  
casion a Necessity of a Registry to  
prevent them.

In tracing out the Occasions of making  
this Statute, I was drawn through  
all the Statutes against Mortmain, as far  
back as *Magna Charta*, which doth prohib-  
bit the giving Lands to Religious Houses,  
by which it did seem to me, that Lands  
had been so given before that time, for  
else it had not been prohibited: For man-  
y Prohibitions generally come after  
the Fact committed, whereas the Laws al-  
ways prohibit by way of Prevention; *Man*  
was forbidden the Tree, before ever he  
had tasted of it.

The first Statute against Mortmain, was  
made by God himself, before the Fact com-  
mitted

mitted; for by the *Mosaicall* Law, which instituted the first Society of Priesthood, the Levites are forbidden to have any Inheritance but the Tithes, that they might not dose upon their Possessions; but Avarice increasing upon them by an Acquisition of Wealth, which they did not know how to dispose of, they agreed to set up a Publick Treasury, by way of a Joint-Stock, for the use of the Church, which was not within the Words of the Prohibition; and out of this Joint-Stock they paid *Judas* the thirty pieces of Silver, which being returned by him, they were loth to part with it, and yet puzzled what to do with it, because being the Price of Blood, it was against their own Canons, to put it again into their Treasury; *Therefore they took Counsel, and bought the Pastors Field, to bury Strangers in.* As my Lord Coke commends the Wisdom of our Ancient Clergy, for always choosing the most Learned in the Law to be of their Counsel, so it seems these Priests of old were endued with the like Wisdom: *For the Children of this World are wiser in their Generation than the Children of the Light.*

Now these Lawyers advised their Clients, that notwithstanding this Canon, they might purchase Lands with this Money, and annex them to their Church: But this be-

ing against the Law divine, prohibiting their purchasing of Lands, the Lawyers found this Stratagem, *to purchase these Lands for a Burying place only, in the Name of a Church yard*; which being a thing of Necessity, and made Sacred, would exempt, or at least excuse it from this Statute against Mortmain, and the Priests computing that this might turn to as much Profit as any thing else, (having double Duties for Lodging of Men, and Meat for Horses) they consented to lay out their Money in it, (any thing to get a Penny in an honest way.)

And this *Field of Blood* was the first spot of *Glebe* in the World, to which the Priests will be intitled, (in right of the Church) if ever they gain the possession of the Holy Land.

But having laid this Nest Egg, they went on to join Field to Field, and had they been let alone, had converted whole Kingdoms into Holy Ground before now.

And why Houses of Religion are said to be more haunted with Ghouls than Lay-Tenements, I can't tell, unless some of their subsequent Augmentations were the Price of Blood, as well as their Original Purchase.

But now to begin at our Laws: It is strange to observe, how the Parliaments of England did hunt the Priests and Lawyers with Statutes against Mortmain, from the



the [making] of *Magna Charta*, 9. H. 3. to this Statute in 27. Hen. 8. and yet could never catch them.

The Statute of *Magna Charta* (as has been observed) prohibited the giving of Lands to any Religious House. To evade this, the Lawyers advised the Clergy two things: First, That whereas several great Estates were held of them, under small Rents, that they might purchase in these Estates to their Church, because they were before held of them. Secondly, The Prohibition of the Statute, being to Religious Persons only, that the Secular Clergy were exempted.

To hunt them out of these Holds, the Statute of 7 E. 1. called *Statutum de Religiosis*, doth prohibit any Religious Persons, or others, (which includes the Secular Clergy) by any manner of Craft or Engine to take Lands in Mortmain, and so they could not purchase in the Estates held of them.

To evade this Statute, the Lawyers advised the Clergy, That if they had any silly Contestants who had a mind to be cheated of their Estates, they might suffer a feigned Action to be brought against them, and therein lose their Lands by default, which Recoveries were adjudged by the Justices not to be within any of the words of this Statute, and therefore they were allowed; For that Recoveries being prosecuted



in course of Law, were by Law presumed to be just and lawful, tho' they were done in *Fraudem Legis*.

To drive them out of this Hold, the Statute of *Westminster 2.* makes all Lands so recovered to be forfeited to the Lords of the Fee, and for want of their Entry to the King.

To evade this Statute, the Lawyers advised the Clergy two things. *First*, That for all Lands lying round the Church, they might enter into them by assent of the Tenants, and make them Churchyards by Bulls of the Pope, (*whether they had this by precedent from the Original Purchase, or according to the Proverb, That good Wits jump, is not material.*) *Secondly*, They advised them that they might purchase Lands in the Names of other Persons to their Use.

To hunt them out of these Holds, the Statute of 15 R. 2. *prohibits both these.*

To evade this, the Lawyers advised the Clergy, that they might purchase in the Names of other Persons *in Trust* for themselves; which Trust was not within the precise words of *Use*.

And thus the Priests continued to Cheat the People of their Estates, and the Lawyers the King of his Escheats, for above three hundred years together, in spite of all Laws made to the contrary.

In which time they had taught the Lay-  
 ety this Craft, to convey away their le-  
 gal Estates to Persons in Trust, whereby  
 to prevent the Descent to the Heir, and  
 consequently the Wardship to the King  
 and other Lords, and yet to keep the use  
 and perrancy of the Profits to themselves  
 and Families: Of which King H. 8.  
 complaining to his Judges, they advised  
 an Act for Transferring all Uses and Trusts  
 into Possessions, for which purpose a Bill  
 was drawn by the King's Counsel, and  
 presented to the House of Commons in  
 the 24<sup>th</sup>. year of his Reigo, when it was  
 rejected, but passed in the 27<sup>th</sup>. which is  
 this Statute of Uses.

And four years after a Statute passed  
 (worth all the former) for Dissolution of Mo-  
 nasteries; by which the Priests lost their  
 Lands, and the Lawyers their Clients, (tho'  
 not their Cunning) as will appear by the  
 Sequel.

Now this Statute of uses 27 H. 8. hath in-  
 troduced a new Conveyance in the Law,  
 (which was not before) by way of Bargain  
 and Sale, for tho' a Bargain and Sale did  
 raise a use at the Common Law, yet it  
 was not a compleat Conveyance to trans-  
 fer the Possession without an actual deli-  
 very of it in the Country, but now this Sta-  
 tute doing that Office by transferring the  
 Use

Use into a Possession, a Bargain and Sale became a compleat Conveyance without any other Ceremony, and the same Parliament foreseeing that this Bargain and Sale so perfected might become a Clandestine Conveyance to be executed any where, did intend to provide against it by making a Short Statute the same Sessions for that purpose, called *The Statute for Enrollments*, by which all Conveyances of Inheritance of Freehold, which pass by Bargain and Sale only, are to be Enroll'd within six Months after the Date, that Purchasers may have Notice thereof from the Record.

But of late years the Lawyers have ropt their Inventions upon these two Statutes. For, *First*, They make a *Bargain and Sale* for a Term only, (now generally called a *Lease for a Year*) and which is not within the Statute of Enrollments, and by this the Lessee gains a Use at Common-Law, and a Possession by the Statute of Uses: which makes him capable of taking a Release of the Reversion at Common Law and then they make a Release to him and his Heirs accordingly. Which two Deeds make him one perfect Conveyance, and so by putting the Common-Law at both Ends, and the Statute of Uses in the Middle, the Statute for Enrollments

is bikt, and these Conveyances by *Lease and Release*, which are Clandestine Conveyances, and invented by the Abuse of one Statute, and the Elusion of the other are become the Common Conveyances of the Kingdom.

I challenge the Inns of Court to shew that either the Common Law or any Parliaments of *England*, ever directed any Incumbrances to affect Lands, but by Solemn Livery and Seisin, or matter of Record; and therefore these Clandestine Conveyances are kept in, contrary to the Intent and Meanings of Parliaments, and all the avowed Laws and Customs of the Kingdom.

There are two Common Titles to Lands in *England*. The one by Descent, which is proved by Marriages, Baptisms and Burials; and the other by Purchase, which is proved by Deeds; and where there is one Dispute of Title by Descent, there are ten by Purchase; because the Titles which shew the Descent are registred, and those by Purchase are not; for were these Marriages, Baptisms and Burials, left at large without notifying of them as Purchases are, it would soon breed Confusion in all the Descents of the Kingdom. And is it not a Reproach to the Law, that that part of the Titles of Lands, which is the Province of

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of poor Parish Clerks, should have more certainty in it, than that which belongs to the Professors of the Law?

Third Assertion.

That all Objections made against a Registry, upon account of Mischief which may arise by Discovery of Titles, are not only contrary to all the *ancient* Laws and Customs of England, but to the very Essence of Title, and the History of Conveyances.

P R O V E D.

Some Notice is essentially necessary to the Title of every thing that is vendible. To make a Title, is to take the Property of a thing from one Man, and give it to another; of which it is necessary that other persons should have Notice as well as the Parties; or else the Purchaser can have no Title because there is no Witness to give Evidence of it in case the Seller should deny it. And as some Notice is absolutely necessary to all Title, so the more Notice is, the better is the Title; it were better for every Man who is Owner of an Estate, that all Men knew his Title, and then when

whenever he had Occasion to dispose of his Estate, there would be no further Enquiry into the Title of his Lands, then to the Title of Money in his Possession.

And as Notice is thus necessary and advantageous to Title, so in the History of Conveyancing, the most perfect Titles are most Notorious, or rather the most Notorious are most perfect.

And because Antiquity of Precedents is the greatest Argument in the Law: I quote one out of that Authority, which treats of things done before the Foundations of the World, and foretells us of several things that will come to pass after the Dissolution of it. The History of the World is but a Modern Treatise of things of a late Date, which were done in pursuance of Counsels and Decrees made before: *Matters of Fact* set forth, without the Original Design and Institution of them seem irrational, and to have no Meaning in them: Would any thing seem more ridiculous than that the taking off a Seal and delivery of a piece of Parchment by one Man should give another a Title to an Estate, if the Law were not known which gives the Sanction to this Ceremony?

The Precedent I am going to quote is, *That great Settlement of Eternal Life,*  
C made



made by God upon Jesus Christ, for the Considerations therein mentioned: The Epitome or Contents whereof, and the Manner of the Execution I find in that History which we call the Gospel; but because the Contents thereof is not a Subject within this Essay, I will not dare to touch upon it here: But the manner of the Execution being directly within my Argument, (or rather my Argument within that) I dare relate it as I find it. This Settlement was first Enrolled in Heaven (in the Volume of the Book it is written of me,) afterwards was Sealed and Executed in the Blood of Christ (the Seal of the Covenant) in the presence of all the World (the Sound thereof is gone through the whole Earth) and since that hath or shall be Written and Preached, Printed and Published in all Nations, Kingdoms, Tongues and Countries. (This Gospel shall first be preached in all the World as a Witness to all Nations, and then shall the End be.) By all which God himself is bound up from disposing Eternal Life in any other manner than pursuant to this Settlement, without giving himself the Lye, which he cannot do; and Man hath such Notice of this Title, that he can't accept any other without becoming an Imposter upon himself.

And



And this is the highest Precedent for Man to form his Titles by, as far as it is imitable by him; *The things on Earth are but the Patterns of things in the Heavens; where the Originals are kept, to try the Truth of all things by.* God delivered out the first Forms of all things in the World, of Ships; of Regular Buildings, of Letters written with his own Hand, of Marches and Encampments, taught the first Workers in Brass and Bugle work, Linnen and Silks, Plowing and Harrowing, Sowing and Reaping, Threshing and Winnowing; all which he owns to come originally from himself.

*A few principles.* And now to begin with the Business of Man: The first Purchase I find since the Beginning of the World was made by Abraham of Ephron the Hittite in these Words, *And the field of Ephron which was in Machpelah, which was before Mamre, the field and the cave which was therein, and all the Trees that were in the field, that were in all the Borders round about, were made sure to Abraham for a Possession in the presence of the Children of Heth, before all that went in at the Gate of the City.*

Another was made by Boaz of Naomi in these words, *And Boaz said unto the Elders and unto all the People, ye are Witnesses this day, that I have bought all that was Elimelechs, and all*

that was Chilion and Mahlon of the Band of Naomi: Moreover Ruth the Moabitess, the Wife of Mahlon, have I purchased to be my Wife, ye are witnesses this day. And all the People that were in the Gate and the Elders said, we are witnesses. (O Tempora! O Mores!) Purchases and Marriages made without Lawyers or Priests: However I have mentioned these Conveyances more particularly, because I fancy our Modern Conveyancers with all their Trumpery of Stationers Ware, can't make better either for Form or Substance. And these were made by Paroll, being before the Delivery of the Form of Letters to Man.

The first that I have observed in Writing was the Purchase of Redemption made by Jeremy of Hananael, in these words, And I subscribed the Evidence and sealed it, and weighed him the Money in the Ballances, so I took the Evidence of the Purchase, both that which was sealed according to the Law and Custom, and that which was open, and gave them to Baruch in the sight of Hananael, and in the presence of the Witnesses, who subscribed the Book of the Purchase before all the Jews that sat in the Court of the Prison; and charged Baruch, saying, take the Evidence, as well that which is sealed as that which is open, and put them

in an Earthen Vessel, that they may continue many dayes.

By this it doth appear, that Registering of Deeds is as antient as the Deeds themselves: Here is the Original Sealed, and then Registered in a Book, to which the Witnesses subscribe their Names: Now Baruch had the Custody of the Registry, in the Nature of a Publick Notary for that purpose, being elsewhere called Baruch the Scribe: But that the Original was delivered him, was an extraordinary thing, for that belongs to the Purchaser: But it being just before the carrying away Captivity into Babylon, (of which Jeremiah had Notice) he delivered them both to Baruch, to hide them till the return of the Captivity.

That which I Cite these Precedents for, is the Notoriety of them, by calling all the People together to bear Witness, and an Inrollment beside to that which was in Writing.

And methinks all the Old Forms in the beginning of Deeds, shew the Intention of making them as publick as they could be: Know all Men by these Presents; and, To all People to whom these Presents shall come, &c.

And as the Law intends Notice of all things done by Deed, so it hath provided Publi-

Publications for things done without Deed, as Fairs and Markets for Selling of Cattel, that the Purchasers may not be cheated: Publications in the Churches before Matrimony, and Registering after it, to prevent *Bigamy*. So the Law marks Felons in the Hand, that none may trust them.

And yet after all this, there is a Provision intended in the Bill for this Registry, whereby any one may Conceal the Uses declared of his Estate, yet so that there shall be some Notice taken of the Deed by which the Uses are declared, that the Owner of the Land shall be incapable of Selling or Mortgaging his Estate, till he doth produce that Deed, whereby a Purchaser or Lender cannot be defeated.

#### Fourth Assertion.

That all Objections made against this Registry, upon Account of Reducing the Practice of the Law, are one good Reason for it.

#### P R O V E D.

The practice of the Law in Civil Causes is divided into three Sorts: First, *The transferring of Titles*, which is called *Conveyancing*, Secondly, *The shewing forth and defending*

defending these Titles in Forms of Law, and this is called Pleading. Thirdly, The arguing upon these Conveyances and Pleadings (when they come in contest) before the Judges, and this is called Practice at the Bar. So that the Practice of the two latter doth arise from the Errors or Incertainties of the former. Were the Titles of Lands once made certain (which they may be by a Registry and no otherwise) I know what I think of the future Gains of the Law. The profit of the Law arises from the Incertainty of property, and therefore as property is more reduced to a certainty, the profit of the Law must be reduced with it, the Fall of the one must be the Rising of the other. Actions of Slander and Battery, and Causes on the Crown-side, would scarce find some of the Circuiteers Perriwigs, and yet (if we observe Evidence) they stand obliged to Disputes in Titles for many of these. Thief and Whore, Kick and Cuff, are very often the Effect of forcible Entries, Trespasses, and serving of process, in which the Title comes frequently in Question. But the reducing this part of the practice of the Law, are things not seen as yet. The Proximate order will fall upon the Conveyancers, and that not by altering the Forms of legal Conveyances, or taking them  
 out

out of their hands, or putting any stop to the Dealing in Lands, ( for that will be encreased ) but by exposing their manner of practice in this conveyancing part of the Law. For as it was numbered among the Sins of one of the Kings of *Israel*, that he made Priests of the meanest of the people, so it is the misfortune of the people of *England*, that Conveyancers are frequently made out of Old Attornies or Noblemen's Lease-makers sumpt up in *Bargain*. Two Qualifications are necessary to a complete Conveyancer. First, That he be incapable of dispatching Business so fast as he should. Secondly, That he doth not dispatch it so fast as he can. Not to speak of bantering their Clients with their seeming Care and Caution in delaying their Business, shewing great Trunks of old Writings in their Chamber, calling to their Clerks ( before them ) for one Lord's Settlement and another Ladies Jointure, to tell what great Clients they have ; and when they come to be paid, they reckon their Fees by longitude and latitude. I have seen an original Mortgage of one Skin, bred up by a Scrivener (in six Year) to one and twenty, by assigning it every Year, and adding one Skin to every assignment by Recitals and Covenants. As Cows after three Years old, have one wrinkle added to each Horn



Horn for every year after; which shows their Age: And I am informed that one Deed of fifty Shillings was heaved out of a Conveyancers Office the other Day.

At this rate in a little time the Clients must drive their Deeds out of their Lawyers Chambers in Wheel-barrows. These Assignments and Re assignments of Securities have been a pretty sort of Perquisition, especially if they have but an old Judgment or Statute kept on foot, these are certain annual Incomes. I know two Serjeants at Law (Usurers) made it their common practice every Long Vacation to swap Securities with one another, to make their Mortgagees pay for the Assignments; and (doing this without Advice of Counsel) they once Merged an old Term, and thereby spoiled their Title to secure their Fees; which (as to them) answers the Character given of these Graduates by a Foreign Historian, *Est in Regno Anglie genus hominum doctarum indoctissimum communiter vocat, The Learned Serjeants at Law*: Now I can't think but these Conveyancers and Assigners would be ashamed to produce such things to a Registry; and that therefore they must either abbreviate their Conveyances, or lose their practice.

And thus I have said of the Usury of the Law.



But whether this Registry will make these Reductions: 1. Of the Length of Conveyances. 2. The Uncertainties of Titles: And, 3. By Consequence, the other Practice in the Law, I cannot tell: However I hope it, and believe some of them fear it.

But if the Cryes of Monks and Fryers had been regarded, we had never heard of the Dissolution of Monasteries: and if the Clamours of Masters of Request, Clerks, and Eschectors had prevailed, the Court of Wards and Liveries had been standing at this day: And yet perhaps most of these had either purchased their Places, or were bred up to that part of the Law only.

**Fifth Assertion.**

That the Assurance of the Title, and Dispatch of Business by this Registry, will be more than equivalent to all the Charge in Registering the Incumbrances.

**P R O V E D.**

The Certainty of Titles being the main drift of this Essay, it would be too mean an Argument to use for it, to say, That the

the Charge of Registering of Deeds will be saved by reducing the Charges in making them. ( altho' this be true ) yet granting it should not, and that this Registering should be an additional Charge to all others, yet the Priviledge of it will be worth the Price.

It is said, that whenever the Ld. Ch. J. *Idles* had made a Purchase, he would say, *Now I would give a Year's purchase more to be sure of my Title*. And if we should ask those who have lost their Estates for want of a discovery of Deeds, they would set a higher Price upon it.

Men generally make their Purchases (with the acquisitions of all their former life) to settle them on their Posterity for whom they are more sollicitous than for themselves; and therefore they are always more jealous of the Title than the Value, because a deficiency in Title goes to the whole, but a deficiency in Value goes but to part only; and for that Reason they would almost think nothing too much to assure them of their Title.

If a Man one hundred and fifty Miles from *London*, is to sue his Neighbour but for *10 l.* he must employ an Attorney in the Country, who must send to another in *London* to make out a Writ, and this must be Entered in one Office and Sealed in

another, and then sent to the Sheriff, who must make out a Warrant, and deliver it to his Under officers, who must arrest the Defendant, take a Bail bond to the Sheriff, and after Bail given to the Sheriff, the Plaintiff must declare, to which the Defendant may plead almost what he pleases for Delay; and if he pleads to Issue, (which is the fairest can be expected) there must be Issue joined, a Record sealed and sent down to the Assizes, a *Pro* and *Dispro* to return the Jury, Notice of Tryal to the Defendant, a Tryal had, the Verdict returned upon the *Pro*, Judgment entered, Execution issued and delivered to the Sheriff, and a Warrant from him to his Under officer to levy it.

Now I don't calumniate this Process for recovery of Debts, nor did I ever hear the Lawyers complain of this as a Burthen to the People. But why of all troubles the trouble of a Registry should be only grievous, I can't tell, unless because it puts an End to Strife: Is it such a mighty trouble for an Attorneys Clerk when he is to enter upon a Judgment, to step into the Registry and leave an Entry made of it? and is it such a great trouble for a Man when he has sealed a Deed to go to the Register to acknowledge it?

There's

There's more trouble than all this in transferring Copy-hold Estates, and yet we don't hear much Complaint about them: Men are seldom in such haste about laying out their Money, or at least their Lawyers are not so violent in dispatch of their Business, but they may dispense with the Ceremony of a Registry, to prevent the loss of their Estates.

*Extinguishing* is the Conveyancers Motto, and therefore they advise their Clients not to hurry them, nor put them out of their own pace; they must think nothing troublesome but the fining the Deed in a Registry. To come in a Lawyers Chamber twice a Week, to know when they shall come again; then to have a Bill of Directions to send for some Deed which the Lawyer wants; and which perhaps is a hundred Miles distant, in they know not whose hands, to employ an Attorney to search for Judgments, Statutes Recognizances, Deeds enrolled in four Courts, to send for a Copy of a Will proved in a remote Diocess, and bring an Account of all this to the Lawyer, and give him a New Fee, and then begin again; and may be two or three such *Receivers* before the Title be finished; and the Clyents must not think much of all this, but take it as the Nature of Business.

And

And yet I can't say but all this may be Necessary, as the Case now stands, which must still grow worse, if let alone. For the Troubles and hazards of Titles must continually increase, until they are reduced to a greater Certainty by a Registry.

But then as a Registry would reduce the Incertainty of Titles, it must thereby take away the Delays in Conveyancing, and consequently abridge the Charges: For as the *Pharisees* made long Prayers, as a Pretence or Equivalent for devouring Widows Houses: So Practisers in the Law must make out long Bills, on pretence for demanding large Fees: Like some Tooth-drawers, who dragg their Patients by the Jaws about the room, to shew them how hardly they earn their Money. To cure Deficiency in Titles, would be as faral to Conveyancers, as the Cure of a lame Legg to a Beggar.

It is pleasant enough to any one (but those who are to pay for it) to read a Conveyancers Bill of Fees, made out for Clients who don't pay well by the great.

To Counsel for perusing several long Deeds of the Title, which from the beginning to the end was near six Months, and drawing several long Conveyances in all thirty Skins of Parchment, 100 Guineas.

To his Clerk for Engraving the same, and Expedition, 30 Pounds.

So here the Counsel is paid for delay, and the Clerk for Expedition, which puts me in mind of three Items set down in a Country-Scrivener's Bill, *Pro speciali labore*, 6 s. 8 d. *pro expeditione*, 6 s. 8 d. *pro dispatch*, 6 s. 8 d. the first was for keeping the Business a great while, and the other two for doing it presently.

**Third Assertion.**

That in case this Registry be admitted, it seems more practicable and less troublesome, to settle it in the Metropolis, than to dispose it into the several Counties.

Tho' the Soil of Lands lyes in in several Counties, yet Concourse of Business to the Metropolis, doth generally occasion the transferring of Titles there (especially of all that are considerable) scarce a Purchase or Mortgage of 500 *l.* but is transacted in London; and by Posts and other Correspondencies, it is less trouble to transmit any thing thither, than few Miles in the Country.

'Tis

'Tis observable, that the Statute for In-rollment giving Liberty to enter Deeds in either of the four Courts at *Westminster*; or in the County where the Lands ly<sup>e</sup>. The latter is seldom used.

And many Deeds containing Lands in several Counties, it would be inconvenient to enter them in all.

But should it afterwards be found necessary to extend this elsewhere, it will be better done from this as a Precedent, than to settle it altogether.

The Judges of the Kingdom were at first resident in the King's Courts only, and from thence were made Itinerant as the Occasions of the Country called for them.

There can be no Streams without a Fountain, but when that is finished, the Water may be directed to any place.

Nothing can be perfected without a beginning, and therefore to resolve to do nothing till we can do every thing, is an absolute Resolution to do nothing, and puts us in the case of the impotent Man at the Pool of *Bethesda*, who (by Conclusion) was under an Impossibility of being healed, for he could not be healed till he slept in, and he could not sleep in because he was lame.



And having thus argued for Publication  
of Titles, as a Notice against Frauds, I hope  
Every candid Man, but I have fairly published  
my thoughts about it; and were all Pro-  
posals for New Laws made as publick as  
this before they passed, perhaps it might save  
the Labour of subsequent Acts to repeat or ex-  
plain them.

As so, what I have said in the Law, I ap-  
peal to them that know it, whether I have mis-  
recited or misinterpreted it.

And notwithstanding all that I have said  
of some of the Lawyers, I am so well satis-  
fied in my Relation to this Science, that I  
would not exchange it, to be a higher Gra-  
duate in any other. And it is more ow-  
ing to the Candor of the Chiefs of the Law  
(who sit in the Seats of Judgment) in dis-  
couraging all fraudulent Practices, and to the  
Care and Fidelity of the Practisers of the  
Law, than to the Law it self, that there are  
no more Frauds committed in the Titles of  
Lands, under the present Uncertainty of them:  
For we see, if but One or Two in an Age of  
that Profession (and none of the most Learn-  
ed neither) do apply themselves to drawing  
Deeds and forging Evidence, what Work they  
make in Westminster-Hall.

And as my Lord Coke, speaking of the  
then Court of Wards, said, That tho' the

Parliament had rejected several Proposals for taking away these Tenures, yet he did not doubt but God had that Kindness for the People of England, that an Act would once pass for that purpose, by giving the Crown an Equivalent: *All which was fulfilled since his Death: So I have that foresight of the growing Mischiefs for want of a Registry, that I am confident the Necessity of it will force its own way: And therefore were I now a dying, I would send this out into the World to take its Fate, with this Motto only.*

~~—~~ Sine me, Liber, ibis in Orbem.

**B I L L**

**FOR**  
**Establishing a REGISTRY**

**FOR**  
**Titles of Lands.**

**W** Hereas by the Common  
Law of this Realm Lands,  
Tenements and Heredita-  
ments were not to be transfe-  
rred from one to another, but by Solemn  
Livery and Seisin, or Matter of Record.

And whereas by the Statute made in  
the 27th. Year of the Reign of King  
Henry the Eighth, Entituled, An Act  
concerning Uses and Wills, a Bar-

gain and Sale did become a Compleat Con-  
 veyance in the Law, whereby Lands and  
 Tenements might be transferred from one  
 to another in a clandestine manner, without  
 Livery and Seisin, or Matter of Record.  
 For prevention whereof, by another Sta-  
 tute made in the same 17th. Year of the  
 late King Henry the Eighth, For Inroll-  
 ment of Bargains and Sales: It was  
 Enacted that from and after the last Day  
 of July, which should be and since was in  
 the Year of our Lord, 1536. No Man-  
 nors, Lands, Tenements, or other Heredi-  
 taments should pass, alter or change from  
 one to another, whereby any Estate of In-  
 heritance of Freehold, should be made or  
 take Effect in any Person or Persons, or  
 any Use thereof to be made, by reason only  
 of any Bargain and Sale thereof, except  
 the same Bargain and Sale were made by  
 Writing, Indented, Sealed and Inrolled in  
 one of the Kings Courts of Record at  
 Westminster, or else within the same County  
 or Counties, where the same Mannors, Lands  
 or Tenements so bargained or sold, lye or  
 be

be, before the Custos Rotulorum, and  
two Justices of the Peace, and the Clerk  
of the Peace of the same County or Coun-  
ties, or two of them at the least, whereof  
the Clerk of the Peace to be one, and the  
same Inrollment to be had or made, within  
six Months after the Date of the same  
Writings indented.

And whereas since the making the said  
Statutes, of late Years, there have been se-  
veral Inventions for Conveying of Estates of  
Inheritance of Freehold, by way of Lease  
and Release, and also for making of Bar-  
gains and Sales thereof for long Terms of  
Years without Inrollment of such Convey-  
ances, both which are a manifest Abuse of  
the said Statute concerning Uses and Wills,  
and an Evasion of the said Statute for In-  
rolment.

And whereas the said Conveyances by  
Lease and Release, and Bargains and Sales  
for long Terms of Years, being clandestine  
Conveyances, to be Executed any where, and  
invented contrary to the Intent and Mean-  
ing of the said Statutes, and all the anci-  
ent

ent and altered Laws and Customs of this  
 Realm, are now of late Years become the  
 most Usual and Common Conveyances, for  
 Conveying of Freehold Lands, whereby se-  
 veral Frauds and Abuses have been commit-  
 ted, and several Suits and Contentions  
 have arisen thereupon, to the manifest har-  
 aring the Titles of the Freehold Lands of  
 this Kingdom, and the dishonour of the  
 Laws thereof.

10 For remedying of the Mischeife aforesaid,  
by providing one certain Place, where all  
the Conveyances and Incumbrances herein  
after-mentioned, relating to Freehold Lands  
may be Entered, in Order to the more easie  
and ready searching and finding out [the

Be it enacted by the Kings most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, and by the Authority of the same



under the Office of Register for the  
purposes herein mentioned. And shall  
provide and do in the said Office for the  
Register of Deeds and  
Writing in manner before mentioned  
and also one more than a Justice

**This Blank is for the Constitution and  
Qualifications of the Register.**

And be it Enacted, that the said Reg-  
ister do be appointed as aforesaid, in or  
before the first day of January next  
and all other succeeding Register for ever  
then after, shall reside and keep his office  
of the Court of Chancery and some other place  
convenient near the City of London.

And be it Enacted, that the said Reg-  
ister do be appointed as aforesaid, in or  
before the first day of January next  
and all other succeeding Register for ever  
then after, shall reside and keep his office  
of the Court of Chancery and some other place  
convenient near the City of London.



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minster, an Office of Registry for the purposes herein after mentioned. And shall provide and keep in the said Office several Register-Books for Registering of Deeds and Writings in manner herein after mentioned, and also one or more stamps for stamping of the same Deeds and Writings, in manner also herein after mentioned, the Counterfeiting of which said stamps shall be and is hereby made ———

And be it Enacted, that all Conveyances, Grants or Assignments of any Mannors, Lands, Tenements or Hereditaments of Inheritance of Freehold, within the Kingdom of England, or of any Rents issuing out of the same, or of any Leases or Terms for Lives or Years to be made thereof, which at any time after the first day of January 1733 shall be duly sealed and executed for good and lawful Consideration, and shall after such sealing and execution thereof, be registered in the said Register-Books, shall in respect thereof be void and of no effect.

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have the Priviledges and Preferences herein after-mentioned, that is to say, that such Conveyances, Grants or Assignments, from and after such Registering thereof, shall be good and effectual, according to the Purport and Contents hereof, against all other Conveyances, Grants or Assignments whatsoever, which after the said Day of shall be made of the same Mannors, Lands, Tenements or Hereditaments, and not Registered as aforesaid, Notwithstanding that such Conveyances, Grants or Assignments so omitted to be Registered, shall be prior in Date or Execution to the said Conveyances, Grants or Assignments, which shall be so registered.

Provided nevertheless that all such Conveyances, Grants or Assignments so omitted to be registered as aforesaid, shall notwithstanding such omission be good and effectual against the Grantors, or the Persons making the same, and all other Persons whatsoever, except the Persons claiming under the said Conveyances, Grants or Assignments, which shall be so Registered as aforesaid, as fully and effectually to all In-

tents and Purposes, as if this Act had never been made.

And for preventing a double charge in Enrolling of Bargains and Sales of Inheritance of Freehold, before the Entry thereof in the said Register Books, Be it Enacted, That such an Entry made as aforesaid, of any Bargain and Sale of Inheritance of Freehold, at any time within six Months after the Date thereof, shall be deemed and taken to have, and is hereby made to have the force and effect of an Enrollment, within the said Statute for Enrollment of Bargains and Sales, as fully and effectually to all Intents and Purposes as if the same were enrolled in either of the said Courts of Record at Westminster, or with the Custos Rotulorum of the same County.

And whereas several Conveyances or Assignments may be made by indorsements upon former Deeds, Be it Enacted, that when any Conveyance, Grant or Assignment shall be duly Registered as aforesaid, and after such Registering thereof, there shall be any Grant, Conveyance or Assignment, Declaration,

tion of Trust or other Deed made by Indorsement thereon, that the Registering such Indorsement in one of the said Register-Books, and making a reference therein to the said former Deed on which the same was indorsed, shall be as good and effectual to all Intents and Purposes, as if the said former Deed were again Registered with the said Indorsement.

And whereas it may be Conceived to be sometimes prejudicial or inconvenient, to publish the Uses and Trusts to be declared of Lands, Be it Enacted, that where any Grants, Conveyances or Assignments shall be made of any such Mannors, Lands, Tenements, or Hereditaments as aforesaid, to any Uses, Intents or Purposes to be expressed in the same Deed, or any other Deed to which the same Deed shall refer, that the Registering of so much of such Conveyances, Grants or Assignments, by which the Legal Estate of the same Mannors, Lands, Tenements or Hereditaments, contained in the said Deed shall stand transferred, and certifying such Registering up-

on the same Deed so in part registred, and also upon the other Deed to which the same so in part registred shall be made to refer, Shall be esteemed a Registering of the said Uses or Trusts within this Act, whereby to entitle the same Uses and Trusts to such preference as aforesaid, as fully and effectually to all intents and purposes, as if the same Uses or Trusts were registred at large, any thing herein contained to the contrary notwithstanding.

And whereas Freehold Lands in England, are by several Acts of Parliament, made liable to Executions on Judgments, Recognizances and Statutes, which being entered in several places, the Searches for the same are chargeable, and the finding of them difficult, to the further hazarding of the Titles of Lands, For remedy thereof Be it Enacted, that no Judgment, Recognizance or Statute to be had or acknowledged at any time after the said day of                    shall bind or charge any Lands, Tenements or Hereditaments within the Kingdom of England, against any

Pur-

Purchasers or Mortgagees thereof, except such Lands, Tenements or Hereditaments, as the Defendants in such Judgments or the Cognizors in such Recognizances and Statutes shall have on the day of the Registering thereof with the said Register in manner herein after-mentioned, That is to say, that for all Judgments, the Names of the Plaintiffs and Defendants therein, the Summs recovered thereby, and the Day of the Signing thereof by the Judge, or other Officer signing the same, Shall be Registered, and for all Recognizances and Statutes, the Names of the Cognizors and Cognizees therein, the Summs thereby acknowledged to be due, and the day of the Acknowledgment thereof Shall be Registered.

And be it Enacted, that no Devise by Will of any Lands or Tenements within the Kingdom of England, shall be allowed as good against any Purchasers or Mortgagees of the same Lands or Tenements, unless such Will, or so much thereof, whereby such Devise shall appear, shall be registered

sted in one of the said Register Books, within six Months next after the death of the Testator, provided that after such Registering of such Will or Devise, the same shall take the Effect from the Death of the Testator.

And be it Enacted, That the said Register for the time being, or his sufficient Deputy in that behalf, shall from time to time, certify the days of all and every the respective Registries therein before directed, upon some part of the Deeds or Writings so to be registred as aforesaid, by affixing the Stamp of the said Office thereunto, and signing the same. Which said Certificate shall be taken as Evidence of such Registries in all Courts of Record and elsewhere.

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I cannot be so Arrogant to dictate this Bill to the Legislative Power, but if what I have asserted be true, I hope the more Learned Gentlemen of the Law, who shall oppose this Remedy, will



will either provide a better, or agree  
 this Motto ( for proclaiming the Laws  
 of *England* ) upon every House in the  
 Kingdom, **NO ONE KNOWS THE  
 OWNER.** In which they will not  
 be more ingenuous to their Profession,  
 than the *Athenians* were to their Reli-  
 gion by that Inscription on the Altar,  
 ( **TO THE UNKNOWN GOD.** )

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**F I N I S.**

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will either provide a salary or agree  
the State (for procuring the laws  
in England) upon every State in the  
Kingdom. And the King will not  
be more rigorous in the execution  
than the subjects. And the King  
gives us the liberty of the State.  
(TO THE KING)



FINIS

